

State of California
BOARD OF EQUALIZATION

CIGARETTE AND TOBACCO PRODUCTS TAX REGULATIONS

Regulation 4500. DEFINITIONS.

Reference: Sections 22970, 22971, 22974.5, 22978.7, 22979.7, Business and Professions Code; Section 22971, subdivision (n), Revenue and Taxation Code.

In addition to the definitions in Business and Professions Code section 22971, the following definitions shall apply to this chapter:

- (a)** "Act" means the Cigarette and Tobacco Products Licensing Act of 2003, set forth in division 8.6 of the Business and Professions Code.
- (b)** "Appeals Division staff" means an employee or employees of the State Board of Equalization assigned to the Appeals Division of the Legal Department.
- (c)** "Applicant" means a retailer, wholesaler, distributor, importer or manufacturer who has applied for a license pursuant to the Act, and, if the retailer, wholesaler, distributor, importer or manufacturer is not an individual, the term includes any person controlling such entity.
- (d)** "Arm's length transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.
- (e)** "Board" means the Board Members of the State Board of Equalization meeting as a body or the agency created by article XIII, section 9, of the California Constitution, as the context indicates.
- (f)** "Board Proceedings Division staff" means an employee or employees of the State Board of Equalization assigned to the Board Proceedings Division of the Legal Department.
- (g)** "Business" means a business operated by a licensee and/or the property upon which or location at which such licensed business is operated.
- (h)** "Citation" means a civil notice of violation(s) or a criminal misdemeanor notice to appear.
- (i)** "Control" or "controlling" means control or controlling as defined in Business and Professions Code section 22971, subdivision (p).
- (j)** "Conviction" means a judgment of guilt of a criminal offense.
- (k)** "Excise Taxes Division staff" means an employee or employees of the State Board of Equalization assigned to the Excise Taxes Division of the Property and Special Taxes Department.
- (l)** "Finding" or "Findings" means a determination that a violation of the Act has occurred. This can occur by default if no appeal is made from a Notice of Violation or Warning Notice, or by a final decision made pursuant to Regulations 4700, 4701, or 4702.
- (m)** "Fine" means any fine imposed by the Board pursuant to the Act.
- (n)** "Investigations Division staff" means an employee or employees of the State Board of Equalization assigned to the Investigations Division of the Legal Department.
- (o)** "Licensee" means a licensee as defined in Business and Professions Code section 22971, subdivision (j).
- (p)** "License subject to a civil or criminal citation" means a license as to which a citation has been issued but no final determination of violation has yet been entered into the licensee's or unlicensed person's permanent record.
- (q)** "Notice of Violation" means the document sent to a licensee or unlicensed person referring to the citation issued, the charged violation(s), the penalty or penalties to be imposed, and the licensee's or unlicensed person's appeal rights.

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- (r) "Offense" means a criminal conviction of violations of the Act and/or civil findings of violations of the Act.
- (s) "Person" means a person as defined in Revenue and Taxation Code section 30010.
- (t) "Regulation" means a section of title 18 of the California Code of Regulations.
- (u) "Unlicensed Person" means any person not holding a valid license issued by the Board pursuant to the Act.
- (v) "Warning Notice" means the document advising a licensee or unlicensed person that the stated violation(s) of the Act will be entered into the licensee's or unlicensed person's permanent record as a first offense and that future violations will result in civil penalties.

History: Adopted December 12, 2006, effective April 21, 2007.